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SUBJECT: NEW ZEALAND'S CONTROVERSIAL CAMPAIGN FINANCE BILL

¶1. (SBU) Summary. The Electoral Finance Bill, a highly-controversial Government bill to reform New Zealand's campaign finance rules, aims to place restrictions and spending limits on non-party political advertising. The legislation has survived two readings and is likely to pass before the parliamentary recess in December. Despite some modifications, a broad spectrum of opponents in and outside government still claim that it is affront to New Zealand's democratic principles and will limit free speech and participation. Despite the strong criticism, Labour remains defiant and argues that the legislation is needed to prevent wealthy special interests (i.e., potential National Party supporters) from buying elections. End Summary.

Campaign Finance Bill Continues Towards Passage

¶2. (SBU) On July 23, a highly contentious Government-backed bill that seeks to enforce restrictions and spending limits on non-party political advertising was introduced to Parliament. Despite its controversy, the Electoral Finance Bill received enough support from the minor parties to ensure its passage to the Electoral Select Committee on July 26 where its members - a mix of Government and opposition MPs - scrutinized the bill and made some changes. (Note:

A bill becomes law after its third reading in Parliament, when it receives its Royal Ascent from the Governor-General, the representative of Queen Elizabeth II, New Zealand's official Head of State. In between readings, the bill is sent to Select Committee for further scrutinizing and recommended changes, if any. End Note).

¶3. (SBU) On November 19, the Justice and Electoral Select Committee reported back on the Electoral Finance bill. Cognizant of the weight of popular opposition to the bill that has been building since its introduction, the Committee recommended several changes to its original draft. The Committee increased the limit on how much lobby groups can spend (NZD 120,000 or USD 91,000); relaxed the definition of election advertising; limited anonymous donations to NZD 240,000 (USD 182,000), and limited the amount that can be given anonymously by an individual to NZD 10,000 (USD 7,600). Additionally, the Committee expanded the bill's restriction on political advertising to cover government departments, initially exempt from the scope of the bill. Labour has been criticized for using government-funded public awareness campaigns as thinly veiled election advertisements for Labour Ministers.

¶4. (SBU) The Committee, however, upheld one of the bill's most controversial provisions: the expansion of the official election period from three months before voting day to January 1 of an election year. This expansion of the regulated election period places limits on spending by political parties and advocacy groups for up to 11 months rather than the current three months.
Bill Draws Strong Criticism

¶5. (SBU) On introduction, the bill drew intense and broad

opposition throughout New Zealand society, which has continued to build. Political opposition to the bill is being led by the National Party who, if it becomes the next government, pledges to repeal it if the draft legislation becomes law. The influential Human Rights Commission, a statutory body that monitors and promotes human rights in New Zealand, believes the bill will suppress free speech and grassroots political participation.

¶6. (SBU) The New Zealand Law Society (akin to the American Bar Association) wants the bill to be discarded entirely rather than amended, despite some relaxing of its more restrictive measures. The daily New Zealand Herald newspaper launched a campaign to persuade the Government to shelve the bill. The paper has written scathing editorials slamming the legislation as transparently partisan and anti-democratic, with several op-eds and articles supporting the paper's position. Following a large street protest against the bill in Auckland, similar protests were held in New Zealand's other major city centers, Wellington and Christchurch.

¶7. (SBU) Opponents of the bill uniformly claim that because New Zealand lacks a written constitution, any legislation that affects the country's democratic system of government has, in the past, received bipartisan support and broad civil society support. The Election Finance Bill, if passed, would break with that tradition.

Government Defends Finance Bill

¶8. (SBU) Prime Minister Helen Clark has flatly rejected calls for the Government to abandon the bill. Despite acknowledging that the bill was imperfect on introduction, Clark believes that the necessary amendments to the bill worked out in the Justice and Electoral Select Committee will satisfy critics. She noted that New Zealand has looser electoral laws and asserted that the bill is an attempt to provide greater clarity around private funding for elections.

¶9. (SBU) Justice Minister Annette King, who is charged with shepherding the bill through Parliament, says the latest draft

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addresses key concerns and will be effective in stopping well-financed special interests from being able to buy votes for their party through advertising. Fending off criticisms from National's deputy leader, Bill English, that the amended bill remains legally vague and will dampen needed democratic debate, King noted that where there is uncertainty the "law of common sense" will prevail.

Labour Wants to Pass Bill Before December Recess

¶10. (SBU) The bill's changes are supported by Labour and its support parties, the Progressives, the Greens, NZ First and United Future. The Green Party said the NZD 120,000 restriction on third-party spending would prevent those with deep wallets "drowning out Kiwi groups and people with legitimate election issues." United Future leader Peter Dunne said his main concerns - relating to third-party activities and the definition of election advertising - had been addressed. But he said he would not support any moves to rush the bills into law before Parliament rises for the summer break. The Government hopes that the bill will become law before the end of the year. If the legislation passes before the Parliament recesses, it will be applied almost immediately to the upcoming 2008 election.

Another Campaign Bill

¶11. (SBU) At the same time Parliament considers the Electoral Finance Bill, another bill aimed at regulating campaigning funding is also before Parliament. The Appropriation (Continuation of Interim Meaning of Funding for Parliamentary Purposes) Bill allows MPs to use public funds to publish anything that does not explicitly solicit votes or money. Under the bill, sitting MPs will have the potential to access more funds than those challenging their Parliamentary seat. National claims that this bill coupled with the Electoral Finance Bill, results in an "anti-democratic double whammy" from Labour. National opposes the bill, but the Government is confident that it has enough support from the minor parties to ensure passage.

¶12. (SBU) Labour's resolve to pass the Electoral Finance Bill originates from concerns surrounding the entry into the 2005 election of the Exclusive Brethren Church (EBC). The Brethren informed election officials that they intended to spend NZD 1.2 million (USD 910,000) to campaign against the Labour government but without giving the money to the National Party. The election finance law at the time allowed for such activity but the group had to be careful to avoid public affiliation with the National Party. Labour characterized the EBC negative campaign attacks as an attempt to buy the election. Labour's accusation that National was secretly working in collusion with the Exclusive Brethren hurt National's credibility during the election, which it subsequently lost. Given that National Party supporters tend to come from the business community and have deeper pockets to support candidates than do NGOs and unions, Labour worries that money could play a deciding factor in New Zealand elections - particularly a close election in 2008, and Labour cannot compete with National in that regard.

¶13. (SBU) Comment: The Labour Party has yet to fully recover from having to reimburse parliamentary funds for unlawful election advertising in 2005. National also faced a financial penalty from 2005 but for a considerably smaller amount than Labour. Consequently, Labour faces the next election campaign with a financial shortfall and needs this bill to level the campaign funding playing field. By standing defiantly behind a bill that has seen unflagging popular criticism, Labour appears to be ready to weather any political fallout from its passage in the hopes of keeping National from taking the money and winning in 2008.
McCormick